

38-9a-101. Title.

This chapter is known as "Wrongful Lien Injunctions."

Enacted by Chapter 93, 2005 General Session

38-9a-102. Definitions.

As used in this chapter, "wrongful lien" refers to a lien made in violation of Section 76-6-503.5, and includes:

- (1) a wrongful lien as defined in Section 38-9-102; and
- (2) a nonconsensual common law document as defined in Section 38-9-102.

Amended by Chapter 114, 2014 General Session

38-9a-201. Wrongful lien injunction -- Forms.

(1) (a) Any person who believes that he or she is the victim of a wrongful lien may file a verified written petition for a civil wrongful lien injunction against the person filing, making, or uttering the lien, notice of interest, or other encumbrance in the district court in the district in which the petitioner or respondent resides or in which any of the events occurred.

(b) A minor accompanied by his or her parent or guardian may file a petition on his or her own behalf, or a parent, guardian, or custodian may file a petition on the minor's behalf.

(2) (a) (i) The Administrative Office of the Courts shall develop and adopt forms for petitions, ex parte civil wrongful lien injunctions, civil wrongful lien injunctions, service, and any other necessary forms in accordance with the provisions of this chapter on or before May 2, 2005.

(ii) The office shall provide the forms adopted under Subsection (2)(a)(i) to the clerk of each district court.

(b) The court clerks shall provide the forms to persons seeking to proceed under this chapter.

(c) The district courts shall issue all petitions, injunctions, ex parte injunctions, and any other necessary forms in the form prescribed by the Administrative Office of the Courts.

Amended by Chapter 223, 2008 General Session

38-9a-202. Petition for wrongful lien injunction -- Ex parte injunction.

(1) The petition for a civil wrongful lien injunction shall include:

(a) the name of the petitioner, except that at the petitioner's request his or her address shall be disclosed to the court for purposes of service, but may not be listed on the petition, and shall be maintained in a separate document or automated database, not subject to release, disclosure, or any form of public access except as ordered by the court for good cause shown;

(b) the name and address, if known, of the respondent;

(c) specific actions and dates of the actions constituting the alleged wrongful lien;

(d) if there is a prior court order concerning the same conduct, the name of the court in which the order was rendered; and

(e) corroborating evidence of a wrongful lien, which may be in the form of a police report, affidavit, record, statement, item, letter, copy of the lien, or any other evidence which tends to prove the allegation of wrongful lien.

(2) If the court determines there is reason to believe that a wrongful lien has been made, uttered, recorded, or filed, the court may issue an ex parte civil wrongful lien injunction that includes any of the following:

(a) enjoining the respondent from making, uttering, recording, or filing any further liens without specific permission of the court;

(b) ordering that the lien be nullified; and

(c) any other relief necessary or convenient for the protection of the petitioner and other specifically designated persons under the circumstances.

(3) An ex parte civil wrongful lien injunction issued under this section shall state on its face:

(a) that the respondent is entitled to a hearing, upon written request filed with the court within 10 days of the service of the injunction;

(b) the name and address of the district court where the request may be filed;

(c) that if the respondent fails to request a hearing within 10 days of service, the ex parte civil wrongful lien injunction is automatically modified to a civil wrongful lien injunction without further notice to the respondent and that the civil wrongful lien injunction expires three years after service on the respondent;

(d) the following statement: "Attention. This is an official court order. If you disobey this order, the court may find you in contempt. You may also be arrested and prosecuted for the crime of making a wrongful lien and any other crime you may have committed in disobeying this order."; and

(e) that if the respondent requests, in writing, a hearing after the ten-day period specified in Subsection (3)(a) the court shall set a hearing within a reasonable time from the date the hearing is requested.

(4) The ex parte civil wrongful lien injunction shall be served on the respondent within 90 days after the date it is signed, and is effective upon service.

Enacted by Chapter 93, 2005 General Session

38-9a-203. Hearing -- Court action.

(1) (a) A hearing requested by the respondent as allowed under Section 38-9a-202 shall be held within 10 days from the date the request is filed with the court, except as provided under Subsection (3).

(b) If the court finds compelling reasons to continue the hearing date, the hearing shall then be held at the earliest possible time.

(2) At the hearing the court may modify, revoke, or continue the injunction. The burden is on the petitioner to show by a preponderance of the evidence that the respondent has made, uttered, recorded, or filed a wrongful lien against the petitioner or the petitioner's property.

(3) (a) If the respondent requests a hearing subsequent to the ten-day period after service, the court shall set a hearing within a reasonable time from the date

requested.

(b) At the hearing, the burden is on the respondent to show good cause why the civil wrongful lien injunction should be nullified.

Enacted by Chapter 93, 2005 General Session

38-9a-204. Civil wrongful lien injunction -- Validity of injunctions -- Changes to injunctions -- Dissolution of injunction.

(1) If the respondent does not request a hearing in writing within 10 days of service of the ex parte civil wrongful lien injunction under Section 38-9a-203, the injunction automatically becomes a civil wrongful lien injunction without further notice to the respondent and expires three years from the date of service.

(2) The civil wrongful lien injunction issued by the court shall include the following statement: "Attention. This is an official court order. If you disobey this order, the court may find you in contempt. You may also be arrested and prosecuted for the crime of making a wrongful lien and any other crime you may have committed in disobeying this order."

(3) A certified copy of an ex parte civil wrongful lien injunction or civil wrongful lien injunction is presumed to be a valid existing order of the court for a period of three years from the date of service of the ex parte civil wrongful lien injunction on the respondent.

(4) (a) Any changes or modifications of the ex parte civil wrongful lien injunction are effective upon service on the respondent. The original ex parte civil wrongful lien injunction continues in effect until service of the changed or modified civil wrongful lien injunction on the respondent.

(b) The validity of the injunction under this Subsection (4) is determined in the same manner as prescribed in Subsection (3).

(5) The ex parte civil wrongful lien injunction or civil wrongful lien injunction may be dissolved at any time upon written application by the petitioner to the issuing court.

(6) (a) The court clerk shall provide, without charge, to the petitioner one certified copy of the injunction issued by the court and one certified copy of the proof of service of the injunction on the respondent.

(b) Charges may be imposed by the clerk's office for any additional copies, whether or not certified, under the Utah Code of Judicial Administration, Rule 4-202.08.

Enacted by Chapter 93, 2005 General Session

38-9a-205. Remedies -- Actions arising from injunctions -- Attorney fees.

(1) The remedies provided in this chapter for enforcement of the orders of the court are in addition to any other civil and criminal remedies available.

(2) The district court shall hear and decide all matters arising pursuant to this chapter.

(3) After a hearing with notice to the affected party, the court may enter an order requiring any party to pay the costs of the action, including reasonable attorney's fees.

Enacted by Chapter 93, 2005 General Session